

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1621 OF 2007

Shri D.T.Mandviwala
through Shanker Babu Bangera
constituted attorney ..Petitioner

Versus

State of Maharashtra & Ors. ..Respondents

Mr.P.C.Kansara for the petitioner

Mr.P.P.Kakade AGP for respondent nos.1 to 4.

Mr.S.B.Amin for respondent no.5.

Coram : S.J.VAZIFDAR, J

Date : 20.07.2007.

PC

1. The impugned order passed by the learned Joint Charity Commissioner-respondent no.3 warrants no interference.

2. Respondent no.3 rejected the petitioner's application for extension of time to obtain an NOC under the Urban Land (Ceiling and Regulation) Act 1976.

3. By an order dated 25.11.1992 the application by respondent no.5, the trust, for sale of the property to the petitioner, was sanctioned. The sale was for a sum of Rs.51,000/- in respect of an area of about

1300 sq.meters. Condition nos.(ii) & (iii) of the order read as under :-

ii. The sale shall be executed within a period of six months from the date of this order ;

iii. Application for "No Objection Certificate" and Urban Land (Ceiling and Regulation) Act, 1976 be made within a period of one months from the date of this sanction order if deemed necessary and a copy of the same be entered to the Charity Commissioner, Maharashtra Estate, Bombay for record.

. Condition No.8 of the terms and conditions entered into pursuant to the said sanction reads as under :-

8. It is expressly clarified that it will be solely the responsibility of the purchaser to obtain the clearance/No Objection from the Competent Authority under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 in case the same is required for the whole or any part of the land and the amount paid will not be refundable on the ground that the requisite permission/NOC/Exemption is not forthcoming or is refused or the land or any part thereof is declared or taken over as "Vacant Land" or the land is acquired under the Maharashtra Agricultural Lands (Ceiling and Holdings) Act, 1961, or under any other law.

4. It is true that the application for NOC was made in the year 1992-93. It is now 14 years since the sale was sanctioned subject to the said condition. It was the responsibility of the petitioner to obtain the NOC. The matter cannot be allowed to

drag on indefinitely. In the meantime, the trust had to incur various expenses in respect of the said property. Even assuming that some of these expenses have been paid by the petitioner, it will make no difference.

5. Respondent no.3 has by the impugned order inter alia observed that in respect of property admeasuring 1300 sq.metr. in a prime area it would not be in the interest of the trust after a delay of 14 years, to sanction the sale thereof merely for a sum of Rs.51,000/-. It is difficult to hold that the reasoning is perverse or un-reasonable.

6. In the circumstances, there is no reason to interfere under Article-226 of the Constitution of India. Petition is dismissed.

7. It is however, clarified that it will be open to the petitioner to make an application in accordance with law for re-negotiating the price of the said property. If such an application is made, it will be decided in accordance with law and keeping in mind all the relevant facts.
